

**Notice of Allowability**

Application No.

10/076,131

Examiner

Celia Chang

Applicant(s)

MAVUNKEL ET AL.

Art Unit

1625

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/16/06.
2. ☒ The allowed claim(s) is/are 39-53,56-74 and 76-79.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Celia Chang  
Primary Examiner  
Art Unit 1625

### DETAILED ACTION

1. Amendment and response filed by applicants date Mar. 16, 2006 have been entered and considered carefully.

Claims 1-38, 54-55, 75 have been canceled.

Claims 39-53, 56-74, 76-79 are pending.

2. *Examiner's Amendment*

Authorization for this examiner's amendment was given in a telephone interview with Mr. Michael G. Smith on May 24, 2006.

Claims 76-78 are replaced with the following:

**Claim 76** (Currently amended) A method to treat a condition selected from the group consisting of rheumatoid arthritis, rheumatoid spondylitis, osteoarthritis, psoriasis, acute respiratory distress syndrome, asthma, chronic obstructive pulmonary disease, uveitis, IBD, acute renal failure, head trauma, ischemia and reperfusion injury of the heart or brain, which method comprises administering to a subject in need of such-treatment an amount of a compound of claim 39 or a pharmaceutical composition thereof effective to treat said condition.

**Claim 77** (Currently amended) A method to treat ischemia and reperfusion injury of the heart, which method comprises administering to a subject in need of such treatment an amount of a compound of claim 39 or a pharmaceutical composition thereof effective to treat said heart condition.

**Claim 78** (Currently amended) The method of claim 77 wherein said ischemia and reperfusion injury is in congestive heart failure, cardiomyopathy, vasculitis, vascular restenosis, valvular disease, or myocarditis. .

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3. *Reason for Allowance*

The following is an examiner's statement of reasons for allowance:

Applicants have provided clear terminology in the claims identifying the heteroaryl and heteroatom included alkyl wherein a declaration under 37 CFR a.a32 affidavit clearly identify that heretoatom included alkyl is the replacement of a carbon atom at the "backbone" of the chain. Applicants authorized the above examiner's amendment for which support was found on page 20 lines 17-25 of the specification and the recited reference thereof. The description based on the recited reference indicated the point of intervention after ischemia and reperfusion injury can alleviate cardiac pathology (see fig. 8). Therefore the amendment of claims 76-78 has now clearly identified the explicit method of treatment. Claims 39-53, 56-74, 76-79 are allowed.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celia Chang whose telephone number is 571-272-0679. The examiner can normally be reached on Monday through Thursday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas McKenzie, Ph. D., can be reached on 571-272-0670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OACS/Chang  
May 24, 2006

  
Celia Chang  
Primary Examiner  
Art Unit 1625